

Neil M. Zipkin (NZ 4718)
Holly Pekowsky (HP 5034)
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 Park Avenue
New York, New York 10016
(212) 336-8000
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

DAN-DEE INTERNATIONAL, LTD,	:	
	:	Civil Action No. 08-cv-5540
Plaintiff,	:	(RPP) (RLE)
	:	
v.	:	
	:	APPLICATION FOR CLERK TO
KB TOYS (US), INC., KB TOYS, INC., AND A&T	:	PROVIDE CERTIFICATE OF
INDUSTRIAL, INC.,	:	DEFAULT BY A&T INDUSTRIAL,
	:	INC. PURSUANT TO FEDERAL
Defendants.	:	RULE OF CIVIL PROCEDURE
	:	55(a) AND LOCAL CIVIL RULE
	:	55.1

-----X

Plaintiff in the above-identified action hereby applies to have the Clerk of the Court enter a Certificate of Default by Defendant A&T Industrial, Inc. (“Defendant A&T”), pursuant to Federal Rule of Civil Procedure 55(a) and Local Civil Rule 55.1.

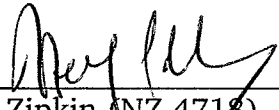
Submitted herewith in support of such application is an Affidavit of the undersigned which it is submitted, in combination with the Affidavit concerning service of the Summons and Complaint and the Individual Practices of Judge Robert P. Patterson, Jr. and Magistrate Judge Ronald L. Ellis on Defendant A&T attached thereto, conforms to the requirements of Rule 55(a) Fed. R. Civ. P. and Rule 55.1 of the Local Civil Rules of this Court for the Clerk to provide the Certificate of Default applied for.

Briefly, the Summons and Complaint were served on Defendant A&T on July 2, 2008 and although counsel for Defendant A&T, Ryan L. Isenberg, contacted counsel for Plaintiff on or about July 22, 2008 (the due date for the Answer), Defendant A&T has not answered or otherwise moved in response to the Complaint, and counsel indicated that his client may default.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Plaintiff
90 Park Avenue
New York, New York 10016
(212) 336-8000

By: _____


Neil M. Zipkin (NZ 4718)
Holly Pekowsky (HP 5034)

Dated: New York, New York
August 11, 2008

CERTIFICATE OF SERVICE

It is hereby certified that on the date below, the undersigned served a true and correct copy of Plaintiff Dan-Dee International, Ltd's Application For Clerk To Provide Certificate Of Default By A&T Industrial, Inc. Pursuant To Federal Rule Of Civil Procedure 55(A) And Local Civil Rule 55.1, by regular United States mail, postage prepaid, upon each of the parties listed below:

KB Toys (US), Inc.
100 West Street
Pittsfield, MA 01201

KB Toys, Inc.
100 West Street
Pittsfield, MA 01201

Ryan L. Isenberg, Esq.
Isenberg & Hewitt, P.C.
7000 Peachtree Dunwoody Road
Building 15, Suite 100
Atlanta, Georgia 30328
Counsel for A&T Industrial, Inc.

Dated: New York, New York
August 11, 2008



Holly Pekowsky

Neil M. Zipkin (NZ 4718)
Holly Pekowsky (HP 5034)
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 Park Avenue
New York, New York 10016
(212) 336-8000
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAN-DEE INTERNATIONAL, LTD,
Plaintiff,
v.

KB TOYS (US), INC., KB TOYS, INC., AND A&T
INDUSTRIAL, INC.,

Defendants.

Civil Action No. 08-cv-5540
(RPP)(RLE)

**AFFIDAVIT OF HOLLY
PEKOWSKY IN SUPPORT OF
APPLICATION FOR CERTIFICATE
OF DEFAULT BY A&T
INDUSTRIAL, INC.**

[illegible]

Holly Pekowsky, being duly sworn, deposes and says:

1. I am an associate attorney at Amster, Rothstein & Ebenstein LLP, counsel for plaintiff Dan-Dee International, Ltd (“Plaintiff”) in this action. I make this affidavit in support of Plaintiff’s application for a certificate of default against defendant A&T Industrial, Inc. (“Defendant A&T”) pursuant to Rule 55(a), Fed. R. Civ. P. and Rule 55.1, Local Civil Rules on the grounds that Defendant A&T has failed to plead or otherwise

defend this action. Unless otherwise indicated, I have personal knowledge of the facts set forth herein.

2. Defendant A&T was personally served with copies of the Summons and Complaint and the Individual Practices of Judge Robert P. Patterson, Jr. and Magistrate Judge Ronald L. Ellis on July 2, 2008. Defendant A&T has not answered or otherwise moved as to the Complaint, and the time within which Defendant A&T was to answer or otherwise move expired on July 22, 2008.

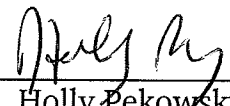
3. Although counsel for Defendant A&T, Ryan L. Isenberg, contacted counsel for Plaintiff on or about July 22, 2008 (the due date for the Answer), Defendant A&T has not answered or otherwise moved in response to the Complaint, no stipulation was entered into by the parties to extend the date, and counsel indicated that his client may default.

4. The Summons and Complaint were properly served upon Defendant A&T as set forth in the Affidavit of Service by Christopher Stanton, annexed as Exhibit A.

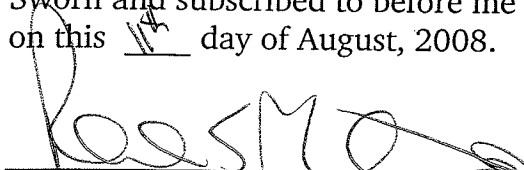
5. Defendant A&T is not an infant, in the military or an incompetent person.

6. Pursuant to the provisions of 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 11, 2008


Holly Pekowsky

Sworn and subscribed to before me
on this 11 day of August, 2008.


Notary Public

RICHARD S. MANDARO
NOTARY PUBLIC, State of New York
No. 02MA5078355
Qualified in Nassau County
Commission Expires June 16, 2011

CERTIFICATE OF SERVICE

It is hereby certified that on the date below, the undersigned served a true and correct copy of Plaintiff Dan-Dee International, Ltd's Affidavit Of Holly Pekowsky In Support Of Application For Certificate Of Default By A&T Industrial, Inc., by regular United States mail, postage prepaid, upon each of the parties listed below:

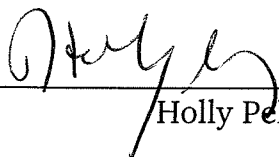
KB Toys (US), Inc.
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100 West Street
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Ryan L. Isenberg, Esq.
Isenberg & Hewitt, P.C.
7000 Peachtree Dunwoody Road
Building 15, Suite 100
Atlanta, Georgia 30328

Counsel for A&T Industrial, Inc.

Dated: New York, New York
August 11, 2008



Holly Pekowsky

EXHIBIT A



Demovsky Lawyer Service

Premier Nationwide Document Retrieval
and Process Service Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAN-DEE INTERNATIONAL, LTD.

Plaintiff,

-against-

KB TOYS (US), INC., KB TOYS, INC., AND A&T
INDUSTRIAL, INC.,

Defendants.

Case No. 08 CV 5540
(Judge Patterson)

AFFIDAVIT OF SERVICE

STATE OF GEORGIA)
S.S.:)
COUNTY OF FULTON)

, being duly sworn, deposes and says that he/she is over the
age of eighteen years, is an agent of the attorney service, D.L.S., Inc., and is not a party to this action.

That on the 2nd day of July, 2008, at approximately the time of 3:55 pm, deponent
served a true copy of the SUMMONS IN A CIVIL CASE; COMPLAINT; INDIVIDUAL PRACTICE
OF JUDGE ROBERT P. PATTERSON, JR.; AND INDIVIDUAL PRACTICES OF MAGISTRATE
JUDGE RONALD L. ELLIS upon A&T INDUSTRIAL, INC. at 4215 Trotters Way, Alpharetta, GA,
personally delivering and leaving the same with Jin Lee who informed deponent
that he holds the position of Authorized to Accept with that company and is authorized by appointment
to receive service at that address. 4215 Trotters Way, Alpharetta, GA 30009
Jin Lee is a Asian F, approximately 30⁵ years of age, stand
approximately 5 feet 5 inches tall, weighs approximately 130 pounds with Black hair.

PROCESS SERVER

Sworn to before me this
7th day of July, 2008

NOTARY PUBLIC

